

## ORDINANCE C-42-94

### AN ORDINANCE TO AUTHORIZE THE ADMINISTRATIVE ASSISTANT TO ENTER INTO AN AGREEMENT WITH THE OHIO BANC AUCTION

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WHEREAS, the City of Grove City has acquired ownership of a 1985 Chevrolet Corvette, Vehicle Identification Number 1G1YYo785FS104592, pursuant to a certain Court Order issued by the Franklin County Court of Common Pleas, Case No. 92CVH09-7529; and

WHEREAS, pursuant to said Court Order, the City of Grove City is required to sell this vehicle at public auction; and


WHEREAS, the City of Grove City needs to retain the services of Ohio Banc Auction for the purpose of securing the sale of said vehicle.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:


**SECTION 1.** The Administrative Assistant is hereby authorized to enter into an agreement, as shown in Attachment "A", with Ohio Banc Auction for the purpose of retaining its services in selling at public auction said 1985 Chevrolet Corvette.

**SECTION 2.** Upon completion of the sale, the proceeds shall be dispersed pursuant to the Court Order referenced herein and attached hereto as Attachment "B".


**SECTION 3.** This ordinance shall take effect at the earliest opportunity allowed by law.

  
Cheryl L. Grossman, President of Council

Passed: 6/6/94  
Effective: 7/6/94

  
Richard L. Stage, Mayor

Attest:

  
Tami K. Kelly, Clerk of Council

I Certify that this ordinance is correct as to form.

  
Thomas Clark, Director of Law

C-42-94  
Attachment "A"  
OHIO BANC AUCTION  
CONSIGNMENT AGREEMENT

This Consignment Agreement ("Agreement") entered into as of the date set forth below, by and between \_\_\_\_\_ ("Consignor") with an office located at \_\_\_\_\_ and Ohio Banc Auction ("Auctioneer") with its office located at 3905 Jackson Pike, Grove City, Ohio.

Recitals

A. Consignor wishes to arrange for the storage, repair, appearance reconditioning and public sale of all vehicles owned or repossessed by it or its agents.

B. Auctioneer is engaged in the business of storage, repair, appearance reconditioning and selling, at auction, vehicles owned by others, and is willing to make its service available to Consignor on the terms and conditions set forth herein.

Agreement

1. Supply of Vehicles. Consignor shall deliver vehicles to Auctioneer ("consigned vehicles") at its above-designated place of business in such numbers and at such times as Consignor determines to be appropriate. All vehicles delivered to Auctioneer shall be delivered on consignment and shall remain the property of Consignor until sold or redeemed. Auctioneer shall not acquire or attempt to acquire any ownership interest in, or right to encumber, vehicles consigned by Consignor to Auctioneer except as against a purchaser of any such vehicle who fails to make payment therefor.

2. Storage. Auctioneer shall provide storage space for all vehicles delivered to it by Consignor until the same are sold at

1 auction, redeemed or retaken by Consignor. For any vehicles not sold at auction, Auctioneer shall charge a storage fee of \$5.00 per day, or a flat charge of \$20.00, whichever is greater, but not to exceed the sale fee listed in paragraph 9. For vehicles sold at auction, no storage fee will be charged. In case vehicle is redeemed, it will be necessary for Consignor to send a release to the Auctioneer, signed by authorized Consignor (via, mail, fax machine or hand delivered) before the vehicle can be released by Auctioneer to Consignors customer.

3. Repairs. Auctioneer shall accomplish, in a manner reasonably satisfactory to Consignor, such repairs or replacements to consigned vehicles as Consignor may direct via work orders prepared by Auctioneer and approved by Consignor. Consignor shall pay Auctioneer for such repairs or replacements as follows:

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- (a) The wholesale cost for parts, options, accessories and tires, plus 10%.
  - (b) A direct labor charge of \$20.00 per flat rate hour for mechanical repairs or parts replacements not expressly covered in other subparagraphs of paragraph 3.
  - (c) A direct labor charge of \$20.00 per hour, plus 25% for materials used, for sheet metal repair and refinishing.
  - (d) The labor hours to be paid, pursuant to subparagraphs 3(b) and (c) above, shall be those stated in the applicable work orders as approved by Consignor prior to commencement of the work.
  - (e) Labor for each tire change.....\$7.00
  - (f) Labor for each oil filter change.....\$7.00
- 1

- (g) Labor for each battery removed, and replaced...\$10.00
- (h) Gasoline, if required, per gallon.....\$2.00
- (i) Oil, if required, per quart.....\$2.00
- (j) Condition report with pictures.....\$10.00
- (k) Condition report without pictures.....\$7.50
- (l) Battery charge.....\$7.00
- (m) Estimates for body repairs.....\$30.00  
(If work is not done per estimate, if work is done  
by Auctioneer per estimate the fee will be waived.)
- (n) Estimates for mechanical repairs.....\$20.00  
(If work is not done per estimate, if work is done  
by Auctioneer per estimate the fee will be waived.)

4. Appearance Reconditioning. Auctioneer shall appearance recondition each consigned vehicles as directed by consignor so as to put the same in saleable condition, satisfactory to Consignor, including as appropriate, clean and spray engine and trunk compartments, clean all wheels and tires, clean and shampoo interior, and compound and polish exterior. Consignor shall pay Auctioneer for such reconditioning services, including all related labor, materials and supplies as follows:

Appearance Reconditioning-

Cars.....\$65.00

Trucks and Vans.....\$70.00

Wash and Vacuum only-

Cars, trucks, and Vans.....\$15.00

5. No Other Charges. No charge (other than those expressly provided for in the Agreement) shall be made by Auctioneer for facilities, storage, handling, indirect labor, overhead or other expense. Before any work is commences, Consignor and Auctioneer shall agree upon the labor hours required and parts and tires to be replaced.

6. Record. Auctioneer shall maintain work or repair orders and labor time records for a period of two years after each sale. Auctioneer shall make all such records available for inspection by Consignor upon reasonable notice during normal business hours, and all agreed-upon discrepancies found shall be promptly adjusted. Auctioneer shall be responsible for maintaining an accurate inventory of all consigned vehicles in its possession.

7. Auction Sales. Auctioneer shall use its best efforts in selling each consigned vehicle at auctions over the block as instructed by Consignor. Two days prior to the day on which such vehicles are to be offered at auction, Consignor shall deliver properly endorsed title to such vehicles to Auctioneer. Auctioneer shall be responsible for all credit and collection matters relating to the sale of consigned vehicles to purchasers at auction. Auctioneer shall hold all vehicles, titles thereto, and funds received in payment therefor, in trust for Consignor and shall remit to Consignor within 72 hours following sale, the net proceed of such sale. For purpose of this Agreement, "net proceeds" means the gross sale price of a consigned vehicle less all fees and charges for such vehicle due from Consignor to Auctioneer.

8. Permits. Auctioneer will obtain and maintain as long as it shall auction vehicles for Consignor hereunder, all licenses and permits necessary for the lawful conduct of such activity.

9. Handling and Auction Fee. Consignor shall pay Auctioneer for its handling and auction sale of each consigned vehicle a sale fee of \$70.00.

10. Default by Individuals. Each successful bid by an

individual requires a non-refundable \$200.00 deposit. In the event of a default by the successful individual bidder on the consigned vehicle, such deposit shall be disbursed to the Consignor. An individual is in default if cash, a cashier's check or other immediately available funds are not received by Auctioneer in payment for the consigned vehicle within 48 hours of bid acceptance.

11. Indemnity by Consignor. Consignor agrees to indemnify, defend and hold Auctioneer harmless from any liability, loss, costs, damage or expense, including attorneys fees which may arise either directly or indirectly from the sale and purchase of the consigned vehicle including but not limited to title services provided by Auctioneer, defects in title, and any matters relating to odometer mileage or odometer mileage statements.

12. Indemnity by Auctioneer. Auctioneer shall be responsible to Consignor for, and indemnify and hold it harmless from, any theft or conversion of, or damage to any consigned vehicle or any part thereof after the same has been consigned to auctioneer and until sold and delivered to a purchaser at auction: provided however, Auctioneer shall not be responsible for loss or damage resulting from an Act of God such as, but no limited to, lightning, hail, flood, tornado, windstorm and earthquake.

13. Term. This agreement shall govern the relationship between Consignor and Auctioneer for a period of one year from the date hereof, unless modified in writing, signed by both parties. If this agreement is not modified or cancelled within thirty (30) days of such termination date, then it shall be extended for one additional year.

14. License. Auctioneer is licensed by the Division of Licensing-Department of Commerce, and is bonded in favor of the State of Ohio.

IN WITNESS WHEREOF, Consignor and Auctioneer have duly executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 1992.

OHIO BANC AUCTION

By David Mummington

Title General Manager

By \_\_\_\_\_

Title \_\_\_\_\_

KELLY

C-42-94  
ATTACHMENT B

## FINAL APPEALABLE ORDER

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISIONIN RE: Forfeiture of  
1985 Chevrolet Corvette VIN  
#1G1YY0785FS104592

TERMINATION NO. 18

BY PR

Case No. 92CVH09-7529

Judge Patrick M. McGrath

ADOPTION OF REFEREE'S REPORT AND ENTRY

This matter came on for hearing on May 13, 1993 on the petition of the Grove City, Ohio Police Department to forfeit 1985 Chevrolet Corvette VIN #1G1YY0785FS104592 pursuant to section 2925.43 et seq. of the Ohio Revised Code; the petitioner was represented by the Prosecuting Attorney. The respondents were represented by Don Wolery.

From a consideration of the evidence, the Court finds that proper notice has been given according to law. The Court further finds that the property which is the subject of this petition is derived directly or indirectly from the commission of an act that could be prosecuted as a felony drug abuse offense or is property that was used or intended to be used in any manner to commit or to facilitate the commission of an act that could be prosecuted as a felony drug abuse offense. The Court further finds that Objections to the Report of the Referee were filed by respondents, and that petitioner filed a response to the objections. Pursuant to Civil R. 53()E(5), the Court finds the referee's findings of fact to be sufficient for this Court to make an independent analysis of the issues and to apply appropriate rules of law in reaching this Judgment order. Furthermore, the Court finds no error of law or other defect on the face of the



report. Consequently, the Court finds respondent's Objections without merit and hereby adopts the Referee's Report as its own.

It is therefore ORDERED, ADJUDGED AND DECREED that the aforementioned property is to be forfeited to the Grove City, Ohio Police Department and the Prosecuting Attorney of Franklin County, Ohio. The proceeds of any sale or distribution of said item is to be made pursuant to section 2925.43 of the Ohio Revised Code in the following order:

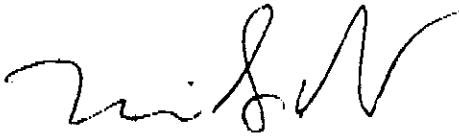
1. To the payment of the costs of the sale and costs incurred by law enforcement agencies and financial institutions in connection with the seizure, storage, maintenance, and provision for security of the seized property;

2. To the payment of any valid security interests and liens pertaining to the property that are held by known secured parties and lien holders, in the order of priority of those security interests and liens;


4. Any remaining proceeds are to be distributed in the following manner: eighty percent (80%) to the Grove City, Ohio Police Department Trust Fund and twenty percent (20%) to the Prosecuting Attorney, Franklin County, Ohio, Trust Fund.

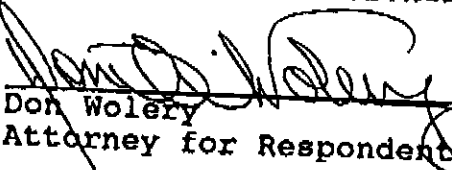
It is further Ordered that the Clerk of the Franklin

County, Ohio Common Pleas Court issue a certificate of title for the 1985 Chevrolet Corvette VIN #1G1YY0785FS104592 to the Grove City, Ohio Police Department, pursuant to section 2925.43 of the Ohio Revised Code.

  
 \_\_\_\_\_  
 Judge

APPROVED:

  
 \_\_\_\_\_  
 Carol Hamilton O'Brien 0026965  
 Assistant Prosecuting Attorney  
 Attorney for Petitioner

  
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 Don Wolery  
 Attorney for Respondent